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January 13, 2023

The Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007
VIA CM/ECF

Re: *US v. Whitehead*; 1:22-cr-00692-LGS; letter-motion to temporarily stay bail condition

Dear Judge Schofield:

I represent Defendant Lamor Whitehead (“Defendant” or “Bishop Whitehead”) in this action. This is an emergency letter-motion for temporary modification of the bail disposition [8] to stay the condition of “[n]o contact with victims or witnesses” until the Government provides a list of the same. Defendant requested that the Government provided the identification¹ of “victims” and “witnesses” pursuant to the Order [8] setting conditions of release. *See* Notice to Government [31]; [8] at 8 (“No contact with victims or witnesses[.]”). Defendant notes that a “crime victim” under the Crime Victims’ Rights Act, 18 U.S.C. § 3771(a), is “a person directly and proximately harmed as a result of the commission of a Federal Offense.” 18 U.S.C. § 3771(e)(2)(A). “A witness is a person who saw or heard the crime take place or may have important information about the crime or the defendant.”² Defendant adopts the Government’s definition of a witness. The identification of victims and witnesses is required by Defendant to comply with this Court’s Order [8] setting conditions of release; specifically, the bail disposition additional conditions. Defendant cannot fully comply with this Court’s Order [8] and bail disposition additional conditions without a list of the identification of the Government’s alleged victims and witnesses.

¹ “Identify” or “identification” when used in reference to a natural person means to state his or her: (1) full name; (2) present or last known business and residence addresses and telephone numbers; (3) present or last known official business position; and (4) business affiliation, address and title. “Identify” or “identification” when used in reference to a business entity means to state its: (1) full name; (2) present or last known form of organization (e.g., corporation, partnership); and (3) present or last known address of its principal place of business.

² <https://www.justice.gov/usao/justice-101/discovery#:~:text=A%20witness%20is%20a%20person,in%20court%20is%20called%20testimony.>

Only the Government knows the actual identification of its alleged victims and witnesses. Defendant requested that the Government promptly provide this information, as it is needed immediately. The Government, i.e., its attorneys, have ignored Defendant's filed request, to date. Because the Government has failed to promptly provide the list of alleged victims and witnesses, Defendant moves for an emergency stay of the condition requiring "[n]o contact with victims or witnesses" by Defendant until the Government provides a list of alleged victims and witnesses.

This letter-motion is filed as an emergency because of the urgent nature of the subject issues. Defendant is at risk for violating a bail condition without the immediate clarification of its terms. Defendant requires the identification of victims and witnesses to comply his bail conditions. Until such identification of victims and witnesses is provided, Defendant is at risk of a violation. Defendant reasonably requested the identification of the Government's victims and witnesses. However, despite this request, the Government has not responded or provided the requested list. As a result, Defendant was compelled to file this emergency motion to stay the bail condition. Under Local Criminal Rule 49.1(b), the Government would ordinarily have 14 days to oppose. However, as explained, time is of the essence, and Defendant's liberty, so this is an emergency. Considering the same, Defendant requests that this motion be heard on an emergency basis. Namely, the Court may decide on this motion without the need for opposition or a hearing. Alternatively, if the Court requires opposition papers, the time to oppose should be shortened. That is, the Government should be ordered to file opposition, if any, on or by January 17, 2023. And Defendant should be ordered to file any reply papers, if any, on or before January 19, 2023.

Per § F of Your Honor's Individual Rules and Procedures for Criminal Cases, Defendant states:

- 1) The original conditions of bail: "No contact with victims or witnesses[.]"
- 2) The new proposed conditions of bail: "No contact with victims or witnesses. This condition is stayed up until such time the Government serves upon Defendant via his attorneys of record, a list of its alleged victims and witnesses."
- 3) Whether the Defendant, the Government and Pre-Trial Services Officer consent to the proposed conditions of bail:
 - a. Defendant: consent;
 - b. The Government: [] consent, [] no consent, [x] unknown—no response to date;
 - c. Pre-Trial Services Officer: "Pretrial holds no position regarding the proposed modification." -Evelyn Alvayero, United States Pretrial Services Officer, 1/13/23.
- 4) Three proposed dates for a bail hearing:
 - a. 1/24/2023;
 - b. 1/26/2023; or
 - c. 1/27/2023.

Thus, Defendant requests that his motion is granted *ex parte* or heard on an emergency basis.

Sincerely,

s/ Brian L. Ponder
Brian L. Ponder, Esq. (BP0696)
Attorney for Defendant